

Remarks

Non-Statutory Double patenting

Applicants attach herewith a terminal disclaimer signed by the attorney of record in compliance with 37 CFR 3.73(b). Applicants have also amended the Claims by canceling Claims 13 and 15.

Claims Rejection -35 USC §102

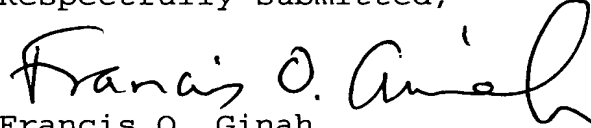
Examiner has rejected Claims 1-15 of the present application as been inherently anticipated by the disclosure of U.S patent No. 5, 631,369. (reference). The reference application teaches the use of anhydrous potassium carbonate as a necessary condition for achieving the preparation of the target compounds of that application. The present application teaches the use of hydrated potassium carbonate under specified conditions to achieve the same or similar compounds.

Examiner has opined that unless a calcination procedure was specifically mentioned, there can be no anhydrous potassium carbonate without some amount of the hydrated form (emphasis added), hence the rejection for inherent anticipation. The Examiner states that the use of hydrated potassium carbonate is inherently disclosed by the cited reference

Applicants beg to differ. Without the efforts by the manufacturer, scientists, and other laboratory personnel to rigorously exclude water (moisture) including but not limited to calcinations, all potassium carbonate may be considered hydrated. However, the independently performed but combinable efforts of persons or entities to avoid or remove water from potassium carbonate and other hygroscopic inorganic bases allows the reasonable assurance which informs the usage of the different terms. For example, Aldrich Chemical Company, lists in its catalog (Handbook of Fine Chemicals) various grades of

potassium carbonate i.e. 99.99%, 99+%, 99%, powder, and sesquihydrate. Persons of skill in the art do not consider all of these presentations of potassium carbonate to be inherently hydrated and interchangeable without effect. To the contrary, the differences are even more pronounced when coupled with the different measures undertaken by users in the laboratory to maintain or enhance the integrity of the different forms. Thus, the distinction, hydrated versus nonhydrated persists with significance. Applicants find no merit in the Examiner's rejection on the basis of inherency. Reconsideration is respectfully requested.

Respectfully submitted,



Francis O. Ginah  
Attorney for Applicants  
Registration No. 44,712  
Phone: 317-276-9477

Eli Lilly and Company  
Patent Division  
P.O. Box 6288  
Indianapolis, Indiana 46206-6288

April 14, 2003